

## **CJA VOUCHERS: FREQUENTLY ASKED QUESTIONS**

December 27, 2006

### 1. **HOURS CLAIMED:**

When calculating your in-court and out-of-court service hours, use hours and tenths of an hour. See Figure 1.

TIME INCREMENTS IN TENTHS			
6 min.	.1	36 min.	.6
12 min.	.2	42 min.	.7
18 min.	.3	48 min.	.8
24 min.	.4	54 min.	.9
30 min.	.5	60 min./1 hr.	1.0

Figure 1

### 2. **IN-COURT TIME:**

Before you begin to prepare your final voucher, query the case's docket report on PACER to verify the dates and duration of all in-court proceedings.

In-court time is the time that you are actually talking with a judicial officer. This may be in a courtroom, in chambers, or even by telephone. While the counsel voucher lists the more common occurrences such as arraignments, motion hearings, and trial, remember that pretrial conferences, status conferences, or telephone conferences with the judge also qualify as in-court time.

In-court time may also be claimed for those occasions when counsel's presence at the courthouse is required. The rule of thumb is that if counsel is required to be here and cannot be at the office, the in-court rate will apply. If a hearing is scheduled for 9 a.m. and counsel reports for that time but the hearing does not start till 9:30 a.m., that half hour spent waiting for the proceeding may be counted as in-court time. An example of text to use regarding a delay-related claim is listed on the sample in-court worksheet. See Figure 3. If, however, counsel requests a continuance to 10 a.m. to confer with his/her client, that *is not* in-court time. What we are trying to allow is fair compensation for those occasions when court is delayed due to circumstances not of counsel's making.

Also, during trial or full-day hearings, counsel may also claim in-court time from the start of the proceeding until adjournment each day of the trial. We allow this because we know that during these times, even when the court breaks for lunch or recess, counsel typically will continue to work on the case in some fashion. Again, an example of text to use regarding a trial-related claim is listed on the sample in-court worksheet. See Figure 4.

## COMPUTING IN-COURT TIME

ARRAIGNMENT SCHEDULED BY NOTICE FOR 9 AM	
Attorney Does arrives for arraignment at 8:45 a.m. Arraignment commences at 9 a.m. Arraignment concludes at 9:10 a.m.	
CLAIM .2	10 minutes for arraignment .1 = 6 minutes, .2 = 12 minutes. .2 is closest because we round UP

Figure 2

MOTION HEARING SCHEDULED BY NOTICE FOR 10 AM	
Attorney Doe arrives for motion hearing at 10 a.m. Motion hearing delayed and finally commences at 10:30 a.m. Motion hearing concludes at 11:30 a.m.	
CLAIM 1.5	30 minutes or .5 for 10-10:30 a.m. <b>required</b> to be here 60 minutes or 1.0 for the actual hearing

Figure 3

TRIAL SCHEDULED: JURY SELECTION AT 9:30 AM, EVIDENCE TO FOLLOW	
Attorney Doe arrives early for trial at 9 a.m. to meet with client Jury selection set for 9:30 a.m. Jury selection delayed and finally commences at 10:30 a.m. Jury selection concludes at noon Court recesses at noon Evidence commences at 1:30 p.m. Trial concludes for the day at 4:30 p.m.	
CLAIM 7 hrs	7 hours for in-court time (.5 (30 minutes) out-of-court time, meeting with client)

Figure 4

### 3. TRAVEL EXPENSES:

You may be reimbursed for travel related expenses that are incidental to the representation (e.g., transportation, lodging, meals, car rental, parking, bridge, road and tunnel tolls, etc.). All travel expenses must be itemized, indicating the dates the expenses were incurred, and all supporting documentation (receipts, canceled checks, etc.) must be attached.

To properly record mileage, list the specific number of miles traveled multiplied by the rate in effect at the time of the travel. Please do not simply enter the total dollar amount without specifying the number of miles and the rate you used to arrive at that dollar figure. See Figure 5.

**US DISTRICT COURT  
EXPENSE WORKSHEET CJA**

**Case Number:** 1:06-cv-358-01-SM

Date	Description of Service/Expense	Travel (Box 17)		
		Mileage	Mileage Reimbursement Amt.	Tolls
9/20/05	R/T - Tilton to Concord	38	\$18.43	\$1.50
10/16/05	R/T - Manchester to Dover	104	\$50.44	\$1.50
	<b>PAGE TOTALS</b>		\$ 68.87	\$3.00
	<b>TOTALS</b>	<b>BOX 17:</b>		<b>\$71.87</b>

Figure 5

Please note that out-of-state travel plans (e.g. air, train or car) require pre-approval by the court. When required to travel out-of-state, you can only be reimbursed for the least expensive form of travel. Thus, you should compare the cost of driving, at the applicable mileage rate (including tolls and parking) against the cost of plane or train fare. Once you have determined the estimated cost of the least expensive form of travel, you must submit a Motion for Out-of-State Travel requesting court approval for the estimated cost.

For overnight travel, reasonable expenses for lodging and meals will be reimbursed on an actual expense basis; per diem is not allowed.

**It is very important to note that counsel is limited to the prevailing travel and subsistence rates applicable to federal employees. Prior to any overnight or out-of-state travel, counsel should contact the Clerk's Office to obtain the applicable rates and federal government travel regulations.**

4. **OTHER EXPENSES:**

Itemize all reimbursable out-of-pocket expenses incidental to representation. Provide dates and a brief description of the expense. **Supporting documentation such as receipts, canceled checks, or affidavits must be submitted for any single expense in excess of \$50.**

### **Computer-Assisted Legal Research:**

The cost of use by appointed counsel of computer-assisted legal research equipment may be allowed as a reimbursable out-of-pocket expense provided that the total amount approved for computer-assisted legal research does not exceed the total amount of attorney compensation that reasonably would have been approved if counsel had performed the research manually. Claims for compensation for such services should be submitted on the CJA 20. Whenever appointed counsel incurs charges for computer-assisted legal research, counsel should attach to the compensation voucher the following:

- 1) a brief statement setting forth the issue or issues that were the subject matter of the research; and
- 2) an estimate of the number of hours of attorney time that would have been required to do the research manually; and
- 3) a copy of the bill and receipt for the use of the equipment or an explanation of the precise basis for the charge (e.g., indicating the extent to which it was derived by proration of monthly charges, or by charges identifiable to the specific research).

Please note that CJA Panel members who use PACER in connection with their CJA appointments can obtain a fee exempt login and password from the PACER Service Center. You must fax (210-301-6441) or mail (PACER Service Center, Pacer Registration, PO Box 780549, San Antonio, TX 78278-0549) evidence of membership on the panel. A copy of an email from the court approving your membership will be accepted.

### **5. MOTIONS FOR CLAIMS IN EXCESS OF STATUTORY MAXIMUM:**

If the amount of compensation claimed (compensation only, not expenses) exceeds the statutory maximum (*see* 18 § 3006A(d)(2) for the allowed maximums), a motion to exceed should accompany the voucher.

Remember that the maximum applies per case/per defendant. Thus, so if you replaced another CJA attorney, his/her claim must be added to your total as it relates to the maximum.

Please see the Suggested Elements for a Motion for Compensation Claim in Excess of the Statutory Case Compensation Maximum in your CJA Reference Manual, §4.b. *See also* LCrR 44.1(c).

### **ELECTRONIC FILING TIPS:**

#### **CJA 20, Appointment of and Authority to Pay Court Appointed Counsel:**

\*Motions to Exceed the Statutory Maximum Limits should be **filed electronically** through the court's ECF system (**unless the case is sealed then the motion shall be filed conventionally**):

\*CJA 20 Vouchers (with supporting worksheets) should be **conventionally filed**:

**NOTE:**        If you are submitting a Motion to Exceed accompanied by your final CJA 20 voucher, you must attach a *Notice of Conventional Filing* to the Motion to Exceed in place of the CJA 20 voucher and then provide the conventionally file voucher to the Clerk's Office with 48 hours of the filing of the motion.

#### **CJA 21, Authorization and Voucher for Expert and Other Services:**

\*CJA 21 Vouchers (with supporting invoices/bills) **and** Ex Parte Motions to Exceed the Statutory Maximum Compensation Limits for Expert Services should be **conventionally filed**.

#### **6.        INTERIM PAYMENTS:**

In order to obtain an order for interim payments, counsel must affirmatively establish both **a financial hardship and that the case is extended or complex**. If granted by the presiding judge, this procedure must be approved by the Chief Judge of the First Circuit or his designee. You will receive an order from the District Court, once approval is received from the Circuit, explaining how to file interim vouchers.

Further, regulations require that we withhold 20% of both in-court and out-of-court fees from **each** interim payment. When the FINAL voucher is submitted, these withholdings should be claimed.

#### **7.        DEFENDANT AS WITNESS:**

If a defendant in a criminal case is going to appear as a witness against another defendant, **a separate CJA 20 appointment voucher** must first be prepared by the court and court-appointed counsel specifically assigned that task. Fees and expenses

should be tracked separately from the case in which the witness is the defendant. The statutory maximum for such appointment falls in the “All Others” category.

The clerk's office should immediately be advised if such a witness arrangement is made so that the necessary appointment forms can be prepared.

6. **PARTNER/ASSOCIATE**

The Guide allows co-counsel only in exceptional circumstances, but it does permit a partner or associate of a CJA member to assist in a case. See Attachment A. A firm member, however, cannot participate to such an extent that he is effectively representing the client or is effectively co-counsel in the case. Additionally, unless the court appoints them as co-counsel, they both cannot get paid for simultaneous court or trial appearances. Thus, a member of the firm can work on the case and appear on occasion for the appointed attorney, but he cannot take over the case or effectively work as co-counsel in the case. This result does not change if the partner or associate is a CJA member.

When appointed counsel claims time for services furnished by a partner or associate, counsel must separately identify that person, the work performed, and time on separate worksheets.

The hours are not an expense of counsel and they do count toward the maximum case compensation limits.

There is only one appointed CJA attorney; the maximum hourly rate for associates' time is what the judge determines to be reasonable.

## ATTACHMENT A

*THE GUIDE TO JUDICIARY POLICIES AND PROCEDURES, Volume 7, Appointment of Counsel in Criminal Case, Chapter 2, Part B, Section 2.10 & 2.11*

### **Part B. Appointment of Counsel**

#### **2.10 Appointment of Counsel to Represent More Than One Individual in a Particular Case.**

Unless good cause is shown or in the absence of a waiver on the record by the defendants, in a criminal prosecution involving more than one defendant, or where separate charges arising out of the same or similar transactions are concurrently pending against two or more defendants, separate counsel should normally be appointed for each defendant. If an attorney is appointed to represent more than one person, a separate order of appointment shall be entered with respect to each person. An attorney who represents joint defendants may be compensated for his services up to the statutory maximum for each person represented, unless the case involves extended or complex representation (see paragraph 2.24 of these **Guidelines**).

#### **2.11 Compensation of Co-counsel.**

**A. Without appointment.** Unless appointed in accordance with paragraphs 2.11 B or 6.01 A, co-counsel or associate attorneys may not be compensated under the Act. However, an appointed counsel may claim compensation for services furnished by a partner or associate or, with prior authorization by the court, counsel who is not a partner or associate, within the maximum compensation allowed by the Act, separately identifying the provider of each service.

**B. With appointment.** In an extremely difficult case where the court finds it in the interest of justice to appoint an additional attorney, each attorney is eligible to receive the maximum compensation allowable under the Act. The finding of the court that the appointment of an additional attorney in a difficult case was necessary and in the interest of justice shall appear on the Order of Appointment. (See paragraph 6.01 A for appointment of more than one attorney in capital cases.)